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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/764,708	01/18/2001	Katherine G. August	August 35	7584
32498	7590	09/07/2007	EXAMINER	
CAPITOL PATENT & TRADEMARK LAW FIRM, PLLC ATTN: JOHN CURTIN P.O. BOX 1995 VIENNA, VA 22183			ART UNIT	PAPER NUMBER

DATE MAILED: 09/07/2007

Please find below and/or attached an Office communication concerning this application or proceeding.

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No.	Applicant(s)	
	09/764,708	AUGUST, KATHERINE G.	
	Examiner	Art Unit	
	Joseph T. Phan	2614	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 30 April 2007 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.
EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. Other (including any explanation in support of the above items):

See Continuation Sheet.

Continuation of 10. Other (including any explanation in support of the above items): the appeal brief lacks a Concise explanation of the claimed limitations and does not refer back to line references And drawings for each in the specification as required by 37 CFR 41.37c (v) . This is required so the Board of appeals is able to refer back to the specification for each limitation for support and clarity.

Appellant cites a range of page #'s for the independent claims which is not sufficient nor is there a concise explanation, more specifically the limitation of 'an always connected state' needs referenced and not the 'always on' network as appellant cites.

In response to appellant's argument of Vysotsky being a call in progress, It is noted that Vysotsky can access a feature when a call is Not in progress(see col.6 lines 34-67; e.g."cancel return call" and "voice dialing" is not a call in progress as Vysotsky specifically discloses). It is noted that even the feature "John" is accessed before the call is in progress('call not in progress' is interpreted as the call not yet connected or established).

In response to appellant's argument of examiner interpreting 'grammar' as 'programming language', It is hereby noted, that the examiner need not interpret 'grammar' as only 'programming language' as Vysotsky, in itself, teaches grammar(col.8 lines 19-23 and lines 38-53) as consistent with appellant's specification.



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